HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. : 1261 of 2007.
Decided on: 27.8.2007.

Minerva Education Society ..... Petitioner.

Versus

H.P.University .....Respondent.

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.
The Hon'ble Mr.Justice V.K. Ahuja, Judge.

Whether approved for reporting? No.

For the petitioner: Mr.J.L. Bhardwaj, vice Mr.Sanjeev Bhushan, Advocate.
For the respondent: Mr.V.D. Khidta, Advocate.

Deepak Gupta, J. (oral):

The petitioner, by means of this writ petition, has prayed that the respondent/University be directed to grant affiliation to the petitioner for running the B.Ed. Course in view of the permission granted to it by the NCTE to run the course, vide its letter dated 16.8.2007.

In view of the nature of the dispute, we had asked the respondent/University to file short reply. The University in short reply has submitted that the recognition/permission has been granted by the NCTE only on 16th August, 2007, whereas the admission process for the B.Ed. Course has

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Whether reporters of local newspapers may be allowed to see the judgment? Yes.

started from June, 2007 and counseling for Medical and Non-Medical streams is already over and counseling for the Arts stream has been fixed for 30th August, 2007 to 5th September, 2007.

This matter is squarely covered by the judgment of a Division Bench of this Court passed in CWP No.1046 of 2007, titled Shimla Education Society and Trust v. State of H.P. and another, wherein this Court has held as follows:

> "What emerges from the above discussion is as follows:
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> 1. The State has no power to impinge upon the Legislative power of Parliament by framing a policy since as far as coordination and determination of standards in institutions for higher education or research, scientific and technical institutions are concerned, the subject is occupied by Entry 66 of List 1 of Schedule VIII of the Constitution.
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> 2. The policy framed by the State is void being repugnant to the National Council for Teacher Education Act, 1993. The order passed by the State on 22.6.2007 and the order passed by Respondent No.2 University dated 20.7.2007 are a nullity in the eyes of law.
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> 3. The University should have considered the grant of affiliation without insisting for any NOC from the State Government and should have acted on the basis of the permission accorded by the National Council for Teachers Education."

It is thus clear that the University/State have no right to refuse affiliation once there is unequivocal approval to run the Course by the National Council for Teachers Education.

We accordingly direct that the University shall grant affiliation to the respondent for running B.Ed. Course. In the counseling to be done for the Arts courses, the successful candidates shall be permitted to opt for the petitioner/Institute. Thereafter, if there is any vacancy left in the petitioner-Institute, the students next in the order of merit in the Medical and Non-Medical

Streams shall also be sponsored for the seats in the petitioner institute so that the entire seats in the petitioner institute are filled up in due course.

CMPs No.2094 and 2095 of 2007:

In view of the final disposal of the main petition, both these applications are also disposed of being infructuous.

(Deepak Gupta), J.

(V.K. Ahuja), J.

August 27, 2007. (trs)